

**In the Matter of:**

**KEITH REED**

**VS**

**ALECTO HEALTHCARE SERVICES, LLC**

**DANIEL DUNMYER**

*June 08, 2022*



5010 Dempsey Drive  
Cross Lanes WV 25313  
304-415-1122

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT WHEELING

KEITH REED, LISA DOLENCE,  
ELIZABETH SCHENKEL, EMILY  
WINES, MARK GARAN and AUGUST  
ULLUM, individually and on behalf of  
others similarly situated,

Plaintiffs,

vs. Case No. 5:19-CV-00263-JPB

ALECTO HEALTHCARE SERVICES, LLC,  
and ALECTO HEALTHCARE SERVICES  
WHEELING, LLC, d/b/a OHIO VALLEY  
MEDICAL GROUP and d/b/a OVMC PHYSICIANS,

Defendants.

DEPOSITION OF DANIEL DUNMYER  
BY VIDEO CONFERENCE

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The deposition of Daniel Dunmyer was  
taken on June 8, 2022, at 1:00 p.m.,  
at 5010 Dempsey Drive, Cross Lanes,  
West Virginia.

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ELITE COURT REPORTING, LLC  
5010 Dempsey Drive  
Cross Lanes, West Virginia 25313  
(304) 415-1122

Martha Fourney, CSR

<div>Page 2</div> <div>1           A P P E A R A N C E S</div> <div>2</div> <div>3       Bren Pomponio</div> <div>4       Attorney at Law</div> <div>5       Mountain State Justice, Inc.</div> <div>6       1217 Quarrier Street</div> <div>7       Charleston, West Virginia 25301</div> <div>8       (By video conference)</div> <div>9</div> <div>10       Michael S. Garrison</div> <div>11       Chelsea E. Thompson</div> <div>12       Attorneys at Law</div> <div>13       Spilman Thomas &amp; Battle, PLLC</div> <div>14       P.O. Box 615</div> <div>15       Morgantown, West Virginia 26507</div> <div>16       (By video conference)</div> <div>17</div> <div>18       Maureen Davidson-Welling</div> <div>19       Attorney at Law</div> <div>20       Stember Cohn &amp; Davidson-Welling, LLC</div> <div>21       The Hartley Rose Building</div> <div>22       425 First Avenue, 7th Floor</div> <div>23       Pittsburgh, Pennsylvania 15219</div> <div>24       (By video conference)</div>	<div>Page 4</div> <div>1           DANIEL DUNMYER,</div> <div>2       called as a witness, first being duly</div> <div>3       sworn by the Court Reporter/Notary Public,</div> <div>4       testified as follows, to wit:</div> <div>5           EXAMINATION</div> <div>6       BY MR. POMPONIO:</div> <div>7       <b>Q. Good afternoon. This is -- I'm Bren</b></div> <div>8       <b>Pomponio. I represent the plaintiffs in this</b></div> <div>9       <b>case. Thank you for being here.</b></div> <div>10       <b>Could you state and spell your name for</b></div> <div>11       <b>the record?</b></div> <div>12       A. Yes. It's Daniel Charles Dunmyer;</div> <div>13       D-A-N-I-E-L, C-H-A-R-L-E-S, D-U-N-M-Y-E-R.</div> <div>14       <b>Q. Have you ever been deposed before?</b></div> <div>15       A. Yes, I have.</div> <div>16       <b>Q. About how many times?</b></div> <div>17       A. Between five and ten.</div> <div>18       <b>Q. And so I take it you're somewhat</b></div> <div>19       <b>familiar with this process, correct?</b></div> <div>20       A. Somewhat familiar, yes.</div> <div>21       <b>Q. Okay. Well, if you need a break for</b></div> <div>22       <b>anything at any time -- we're scheduled to only</b></div> <div>23       <b>go two hours, so we're obviously not going to</b></div> <div>24       <b>be here all afternoon. But if you need a break</b></div>
<div>Page 3</div> <div>1           I N D E X</div> <div>2</div> <div>3       Witness</div> <div>4</div> <div>5       Daniel Dunmyer</div> <div>6</div> <div>7       Examination</div> <div>8       by Mr. Pomponio           Page 04</div> <div>9</div> <div>10       Exhibits</div> <div>11</div> <div>12       Number 1                   Page 29</div> <div>13       Number 2                   Page 42</div> <div>14       Number 3                   Page 47</div> <div>15       Number 4                   Page 55</div> <div>16       Number 5                   Page 57</div> <div>17</div> <div>18</div> <div>19       Reporter's Certification   Page 64</div> <div>20       Errata Sheet/Signature Page Enclosed</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div>	<div>Page 5</div> <div>1       for any reason, just let me know. Okay?</div> <div>2       A. Thank you.</div> <div>3       <b>Q. Are you taking any medications or</b></div> <div>4       <b>having any physical ailments that would affect</b></div> <div>5       <b>your ability to testify truthfully today?</b></div> <div>6       A. No. I'm not taking anything. Thank</div> <div>7       you.</div> <div>8       <b>Q. All right. I want to just talk a</b></div> <div>9       <b>little bit before we get started here about --</b></div> <div>10       <b>definitions about the various entities that</b></div> <div>11       <b>we'll be talking about today. If I refer to</b></div> <div>12       <b>Alecto Healthcare Services, LLC -- I may refer</b></div> <div>13       <b>to them as Alecto or AHS. Is that okay?</b></div> <div>14       A. That's fine.</div> <div>15       <b>Q. And if I refer to Alecto Healthcare</b></div> <div>16       <b>Services Wheeling, LLC -- I will frequently use</b></div> <div>17       <b>Alecto Wheeling. Is that okay?</b></div> <div>18       A. That's fine as well.</div> <div>19       <b>Q. All right. And I may refer to both</b></div> <div>20       <b>Alecto or AHS and Alecto Wheeling collectively</b></div> <div>21       <b>as defendants. All right?</b></div> <div>22       A. That's fine. Thank you.</div> <div>23       <b>Q. Sometimes I'll refer to the Ohio Valley</b></div> <div>24       <b>Medical Center as OVMC, and refer to East Ohio</b></div>

<p style="text-align: right;">Page 6</p> <p>1 <b>Regional Hospital as EORH. Okay?</b> 2 A. I understand. 3 <b>Q. All right. Could you tell us your home</b> 4 <b>address, please?</b> 5 A. It is 11103 Laughton Circle, 6 L-A-U-G-H-T-O-N, Circle, Fort Myers, Florida 7 33913. 8 <b>Q. I'm going to be out your way next</b> 9 <b>month. I'm getting together with my father's</b> 10 <b>side of the family at -- I think it's called</b> 11 <b>Lake June-in-Winter. Are you familiar with</b> 12 <b>that?</b> 13 A. I don't know where that is. But if 14 it's towards the coast, it might be near Fort 15 Myers then. 16 <b>Q. I think it's more in the central -- you</b> 17 <b>know, it's more central. Kind of east of Tampa</b> 18 <b>or south --</b> 19 A. Yeah. Tampa is about two hours north 20 of Fort Myers. 21 <b>Q. All right. What's your home phone</b> 22 <b>number?</b> 23 A. I have two cell phones that I use. 24 <b>Q. Okay.</b></p>	<p style="text-align: right;">Page 8</p> <p>1 <b>educational background?</b> 2 A. High school in Pittsburgh; college -- 3 Bethany College, Bethany, West Virginia. 4 I don't know if you heard that, but 5 we're having our typical afternoon 6 thunderstorm. 7 But Bethany College, Bethany, West 8 Virginia. Then University of Pittsburgh. 9 Graduate school of public health -- 10 <b>Q. What --</b> 11 A. -- is the education. 12 <b>Q. I apologize.</b> 13 <b>What did you get your degree in in</b> 14 <b>undergrad?</b> 15 A. A major in communication and a minor in 16 economics. 17 <b>Q. Are you currently employed?</b> 18 A. I'm currently employed with Landmark -- 19 one word -- Landmark Hospital of Southwest 20 Florida. 21 <b>Q. Okay. What is your current position?</b> 22 A. CEO. 23 <b>Q. Okay. Let's turn to the facts of this</b> 24 <b>case, please. When did you first become</b></p>
<p style="text-align: right;">Page 7</p> <p>1 A. I'll give you both. Area code 2 304-312-0142. And area code 704-964-9613. 3 <b>Q. Without disclosing any communications</b> 4 <b>you may have had with your lawyer, did you do</b> 5 <b>anything to prepare for this deposition?</b> 6 A. No. I have not. 7 <b>Q. Did you bring any notes or any other</b> 8 <b>documents with you to this deposition?</b> 9 A. No notes from talking with my 10 attorneys. And I never brought anything with 11 me. I have nothing from my stay with Wheeling 12 or Aleco. I have nothing here. So I couldn't 13 review anything anyway. 14 <b>Q. Okay. And where are you physically</b> 15 <b>right now?</b> 16 A. I'm in my hospital at Lehigh Acres, 17 Florida. 18 <b>Q. Could you give me your date of birth?</b> 19 A. 12/10/1957. 20 <b>Q. All right. Are you married?</b> 21 A. I am. 22 <b>Q. What's your spouse's name?</b> 23 A. Nancy M. Dunmyer. Same spelling. 24 <b>Q. Can you just briefly describe your</b></p>	<p style="text-align: right;">Page 9</p> <p>1 <b>affiliated in any capacity with AHS?</b> 2 A. I'll give you a guess. I think it was 3 around December 17th of 2018, I believe. 4 <b>Q. Okay. And how did that -- what was</b> 5 <b>that affiliation?</b> 6 A. Well, I was hired to be the CEO of OVMC 7 in East Ohio. 8 <b>Q. Okay. And -- I'm sorry. I didn't mean</b> 9 <b>to cut you off.</b> 10 A. I was going to give you my whole 11 history. Back when I was a kid, I was in 12 Charleston, South Carolina, at the time, and I 13 relocated to Wheeling. 14 <b>Q. How did you get selected for that</b> 15 <b>position?</b> 16 A. I was -- I don't know how my name got 17 to these folks. I guess maybe people in 18 Wheeling -- I knew people in Wheeling anyway. 19 But they put Lex Reddy and Ron Bingham in touch 20 with me. I talked with them on the phone 21 several times over several months. I can't 22 tell you more specific than that. I don't know 23 what the time frame was. 24 But then along about October, November,</p>

<p style="text-align: right;">Page 10</p> <p>1 they asked me to come up for an interview. I 2 came up in person. I met with some folks, and 3 then was offered the position. And again, I 4 think it was around the 17th of December. 5 <b>Q. 2018, correct?</b> 6 A. 2017. 7 <b>Q. Right. Okay. Very good.</b> 8 <b>And when was it that Aleco acquired</b> 9 <b>OVMC? If you can recall.</b> 10 A. I don't recall. It was before I got 11 there. I think it was the same year, but I 12 can't recall. It was -- yeah. It must have 13 been that same year. Maybe around June. But I 14 do not know. 15 <b>Q. Between 2017 and the beginning of 2019,</b> 16 <b>how would you describe the condition of OVMC's</b> 17 <b>physical infrastructure and equipment?</b> 18 A. Overall, very -- it was poor. There 19 were sections of the building that were in 20 decent shape. But instead of knocking 21 buildings down over the years, they just kept 22 building on. So there were many parts of the 23 hospital that were in disrepair. 24 Equipment was satisfactory. But some</p>	<p style="text-align: right;">Page 12</p> <p>1 A. I'm going to say I can't recall. I 2 don't think it was, but I'd better stick with I 3 don't recall. 4 <b>Q. How would you describe the market</b> 5 <b>conditions during this time period, 2017 to</b> 6 <b>2019?</b> 7 A. May I ask on what level? Do you mean 8 for patients? For staff? 9 <b>Q. Both.</b> 10 A. Competition? 11 <b>Q. All of that goes into the --</b> 12 A. Okay. 13 <b>Q. -- financial impact of the hospital.</b> 14 <b>And so if you could just expound on all of</b> 15 <b>those, that would be great.</b> 16 A. We were fighting for patients. There 17 were decisions made long before I came in. One 18 major example, I used to meet with former CEOs 19 and people that were involved with both OVMC 20 and Wheeling and, heck, Reynolds as well, about 21 the past. I think the lack of working with -- 22 or having a contract with the Upper Ohio Valley 23 Health Band might have been -- maybe not the 24 first nail, but it was maybe going towards the</p>
<p style="text-align: right;">Page 11</p> <p>1 needing replaced. There was some new 2 equipment. I can't remember whether the 3 equipment was new or old. But it would take 4 some money to get it all repaired. Certainly, 5 the building. The infrastructure was not in 6 great shape. 7 <b>Q. During this same time frame, how would</b> 8 <b>you describe OVMC's financial condition?</b> 9 A. Not very strong. In fact, I believe 10 that's how Aleco got involved. Again, I 11 wasn't there, so I don't know who talked to 12 whom. But it was not very strong. 13 <b>Q. Did the office -- I mean the hospital,</b> 14 <b>suffer operating losses in 2017, '18, '19?</b> 15 A. Yes. I cannot tell you the degree. I 16 can't recall. But I believe -- again, I only 17 want to deal with facts. So I don't know what 18 it was before I got there. But I believe they 19 were close to closing the place at least 20 according to conversations with different folks 21 at the time. 22 <b>Q. Did OVMC have a pension plan?</b> 23 A. Yes. There was a pension plan. 24 <b>Q. Do you know whether it was underfunded?</b></p>	<p style="text-align: right;">Page 13</p> <p>1 last nail of driving their market down. 2 So our patient market was not very 3 strong before I got there. And sadly, I wasn't 4 able to strength it. But we were finding it 5 difficult to find certain staff members -- 6 certain qualified staff. But the employees 7 were always strong. They were committed to 8 OVMC. It was trying to find physicians as 9 well. 10 We had Wheeling Hospital that was 11 exceptionally strong, or at least appeared to 12 be, and came across to be and were aggressive. 13 We had Reynolds below us about 15 miles, part 14 of WVU. That was a solid competitor. And even 15 some hospitals in Ohio reaching down towards 16 the Martins Ferry area. 17 So we found it difficult to find 18 physicians. We found it difficult to get 19 patients. And we did lose some staff, but the 20 staff -- we had a lot of staff as I recall that 21 were there for many, many years. 22 <b>Q. At some point, did Aleco decide to try</b> 23 <b>and sell OVMC?</b> 24 A. I think that was the intention, sell --</p>

<p style="text-align: right;">Page 14</p> <p>1 have it joint ventured, whatever it may be. 2 But, yes. 3 Again, I'm going to talk to you in 4 generalities because I can't remember specific 5 dates. But certainly by the turn of 2019, it 6 was recognized that we weren't going to be able 7 to survive the way we were. So probably -- if 8 somebody gave you a different date, then 9 they're right. I'm going to say somewhere 10 around January, February of '19. 11 <b>Q. And did you have any role in trying to</b> 12 <b>find a buyer for OVMC?</b> 13 A. Yes, I did. Keep in mind, whatever 14 that role may be, I wasn't going to go out and 15 find -- and do it myself. But I talked with 16 representatives from Prime Healthcare. I was 17 not involved with the discussions with Steward 18 Healthcare. But I know we talked with Steward. 19 I talked with Wheeling. I talked with WVU. I 20 talked with the State of West Virginia. I 21 talked to some politicians from Ohio trying to 22 connect us with Ohio companies. We even 23 reached out to Cleveland Clinic without any 24 true interest.</p>	<p style="text-align: right;">Page 16</p> <p>1 <b>able to sell the hospital? OVMC, that is.</b> 2 A. Actually, I thought that it could be 3 sold -- not the building. There had to be 4 special negotiations about buildings and 5 whatnot. But East Ohio was in okay shape. As 6 I said, the part of OVMC that was built in 7 1980, we had problems. We had leaks and things 8 that hospitals have. But I was believing that 9 Prime Health and/or Steward Health was going to 10 step up to the plate. Just because in my 11 mind -- I had no inside knowledge. That's even 12 an inappropriate way to say it. 13 But Prime has a hospital, East 14 Liverpool. Steward was trying to grow. So I 15 assumed that they would be interested. But 16 obviously, it did not happen. 17 <b>Q. And was that in -- I'll just put a fine</b> 18 <b>point on it. I'm going now to the summer of</b> 19 <b>2019. Did you still hold that belief in the</b> 20 <b>summer of 2019, that they would be able to sell</b> 21 <b>the hospital?</b> 22 A. I'm not going to fib to you. I'm not 23 going to talk out of both sides of my mouth. I 24 still thought that Prime would probably come</p>
<p style="text-align: right;">Page 15</p> <p>1 Now, we reached out to folks. There 2 wasn't a whole lot of interest by anyone. But 3 we reached out to a number, and I was involved 4 in that. 5 <b>Q. Do you recall approximately how long</b> 6 <b>Alecto spent trying to sell the hospital, OVMC?</b> 7 A. Again, I can recall basic -- I think it 8 was January and February when I was involved. 9 So I'm going to say at least seven months, 10 eight months. There probably was phone calls 11 before I knew it, back in '18 maybe. 12 I may have even told -- I don't recall 13 it, sir, but I do know that in January and 14 February, I believe that time frame, I was more 15 involved and -- so that's the only part I can 16 speak to. 17 <b>Q. Okay. And do you know if there was any</b> 18 <b>offer to buy received during this time?</b> 19 A. I do not know of any offer that was 20 made. There was discussions I'm sure. But, 21 no, I never saw, nor was involved in the 22 receipt of any offer. 23 <b>Q. Did you have any opinion by about the</b> 24 <b>summer of 2019 whether or not Alecto would be</b></p>	<p style="text-align: right;">Page 17</p> <p>1 back only because of some of the past 2 relationships, not that I had, but they had, 3 that there would be some interest. But along 4 about probably June or July realized -- I think 5 we were told Steward was not interested. And 6 after Prime came in, I suspect -- if I was told 7 that Prime wasn't interested, I'll accept that. 8 I don't recall being told that. But probably 9 around July -- June or July, we knew that there 10 was not much coming down the pike, at least not 11 at that point. 12 But again, no reasons for it. But you 13 would think maybe WVU or Wheeling -- there was 14 some value in having that building -- that 15 service to someone is what my thought was. But 16 about June or July, it certainly wasn't looking 17 favorable. 18 <b>Q. Okay. And did you ever participate in</b> 19 <b>any efforts to apply for financing to keep OVMC</b> 20 <b>open longer?</b> 21 A. I think I understand what you're 22 asking. I never submitted an application 23 myself or never went to a capital company. But 24 I'm sure some of the information I gave to</p>

<p style="text-align: right;">Page 18</p> <p>1 people was used for that. But I personally did 2 not. 3 I did talk to the state though. I 4 talked with politicians of West Virginia, not 5 Ohio. I talked to them about trying to seek 6 dollars or relief for those types of things. 7 Even the City of wheeling -- trying to reduce 8 what we owed them, that kind of stuff. But 9 not -- I never went through an application 10 myself, no. 11 <b>Q. Okay. Were you ever a participant in</b> 12 <b>discussions with Alecto about trying to obtain</b> 13 <b>additional financing to keep the hospital open?</b> 14 A. Tangentially, I was. Say, hey, we need 15 to buy this, we need to do this, we need to 16 repair that while we're reaching out and we're 17 trying to get it. So I was aware that -- at 18 least I was told they were looking at that. I 19 did not participate in that. 20 <b>Q. Okay. And when you say you were told</b> 21 <b>that, who were you referring to generally that</b> 22 <b>would tell you this?</b> 23 A. It would probably be the Lex Reddys or 24 Mike Sarraos or maybe Jeremy Redin, those</p>	<p style="text-align: right;">Page 20</p> <p>1 work. But given our financial condition and 2 the shape of the building and equipment, none 3 of those options probably would have fared 4 well. But we, for a good number of weeks, were 5 trying to figure out how we could make it work. 6 And then on that Monday -- 7 <b>Q. Okay. Now let's unpack a little bit of</b> 8 <b>that. You said at the beginning that that</b> 9 <b>decision was made with me on you believed</b> 10 <b>August 6th. Explain to me the setting, what</b> 11 <b>you mean -- how that decision was made.</b> 12 A. I apologize for cutting you off. 13 It was a phone call. I was in my 14 office. It was 2:00-ish, three o'clock in the 15 evening, or afternoon. Maybe it went into the 16 evening. I can't recall that exact time. But 17 there was folks from Alecto, the same people I 18 was talking about on the phone -- talking about 19 what options we had. 20 And about six o'clock that evening -- 21 and again this is not 100 percent. I believe 22 it was that date. The gist of the conversation 23 was, we can't do some of the options; keep one 24 hospital open or close the other, keep the</p>
<p style="text-align: right;">Page 19</p> <p>1 folks. I talked to them quite often. 2 <b>Q. These are managers, directors, that</b> 3 <b>kind of thing, of Alecto, correct?</b> 4 A. Of Alecto, yes. 5 <b>Q. At some point the decision was made to</b> 6 <b>announce the closure of OVMC and EORH, correct?</b> 7 A. That's correct. 8 <b>Q. When were you told that that decision</b> 9 <b>had been made? Do you recall?</b> 10 MR. GARRISON: I'm going to object to 11 the form of the question. 12 A. I recall certain things specifically. 13 I was part of the discussion of what can we do, 14 how can we make it work. So I was part of the 15 decision to do what we did, but my date might 16 be off. But I think the final decision was 17 made with me on Monday, August 6th. Maybe it 18 was Monday, August 5th. 19 On Tuesday, August 6th or Tuesday 20 August 7th, whatever those dates were -- I 21 talked with staff the evening -- on that 22 Tuesday I believe. So it was about 24 hours. 23 Now, the week before we were trying to 24 put different ideas of what could possibly</p>	<p style="text-align: right;">Page 21</p> <p>1 other one open, close that, drive them both 2 down as to what their services are, whatever it 3 may be. Or keep going the way we were going, 4 that certainly could have been an option too I 5 guess. But the result was -- the only way was 6 to close them both. 7 <b>Q. Okay. And did you make a</b> 8 <b>recommendation to that group about the options</b> 9 <b>that should be followed out?</b> 10 A. We talked about them all, but the 11 option I said that -- the only one that could 12 work other than closing -- and not even say 13 could work. The only one that potentially was 14 feasible was closing OVMC and keeping East Ohio 15 Regional open because it was a better building. 16 But they still -- there was still 17 renovations and money that had to be put into 18 it. Quite frankly, there was a bunch of bills 19 that had to be paid. So although I thought 20 that was a good idea at the time probably, I 21 also realize I don't think that would have 22 worked. 23 <b>Q. Who would you say -- if I asked you to</b> 24 <b>answer this question, who would you say made</b></p>



<p style="text-align: right;">Page 22</p> <p>1 the decision to close OVMC and EORH on the 6th, 2 this conversation we've been talking about? 3 MR. GARRISON: I'm going to object to 4 the form, that it presumes that it's a 5 singular person. His testimony has 6 clearly indicated it was a collective 7 decision. 8 But go ahead. 9 THE WITNESS: Actually, Mike, I 10 appreciate that. 11 A. But my answer was going to be, we all 12 reached that conclusion. Was I pursued more 13 than I pursued them? We talked about every 14 option. I didn't say either we keep East Ohio 15 open or, you know, I quit. We looked at all 16 the options, and I think we came to a 17 consensus. 18 Q. Okay. 19 A. And so was one of the others driving 20 their thought? Maybe so. But during the 21 conversation, it was an open discussion about 22 every option. And it looked like -- well, it 23 didn't look like -- the one that came to be was 24 reached by those on the phone.</p>	<p style="text-align: right;">Page 24</p> <p>1 officials before the decision to close, and 2 after, correct? 3 A. Well, I talked to them before and 4 after, but different topics. 5 Q. So let's talk about the state officials 6 that you talked to after the decision. 7 A. Okay. I won't say I talked to Governor 8 Justice. I talked to Governor Justice's 9 office. I can't remember who. I can't even 10 tell you who his chief of staff was. But it 11 was probably chief of staff or others. 12 I talked to David McKinley -- 13 Congressman McKinley. His wife worked at OVMC 14 for many years. A very fine guy. I hope he 15 wins his re-election. 16 I talked with Bill Crouch at different 17 times. He is the secretary of health. And 18 there may have even been others. I talked 19 probably inappropriately so -- or not for any 20 downside benefit, but I talked with the 21 president of the West Virginia Hospital 22 Association as well, Joe Letnaunchyn. I don't 23 know how you say Joe's last name. He and I 24 became buddies. So I used him as a sounding</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Now, on this telephone call that we've 2 been talking about, you mentioned that there 3 were representatives, managers, whatever, of 4 Alecto on that call. Were there any local 5 management like yourself on there? 6 A. Just me. I don't believe I had anybody 7 from my staff on that phone call. And there 8 weren't any other community representatives, 9 physicians or staff members. 10 Q. What about from EORH, like Ms. Coello? 11 A. Well, Jennifer may have been on -- I 12 don't think she was with me. Now, she -- 13 again, as impactful as this was, you would 14 think I would remember every little detail, but 15 I do not. 16 Q. That's fine. 17 A. Jennifer and I talked. So I believe I 18 talked to her afterwards. But she may have 19 been on the phone because she was one of the 20 ones who helped me come up with different 21 scenarios. 22 Q. Okay. You mentioned that you spoke to 23 various state officials. Tell me something 24 about that. I take it that you talked to state</p>	<p style="text-align: right;">Page 25</p> <p>1 board, that kind of stuff. 2 Then we talked with Congressman Jackson 3 or Johnson -- or, no. I'm sorry -- senator -- 4 state senator for Ohio. He's from the Martins 5 Ferry area. I can't remember his name. It's 6 either Johnson or Jackson I believe. There's a 7 couple of others -- just asking for help. 8 Q. You were asking for help? 9 A. Well, we were closing the hospital. We 10 needed help to find jobs. We needed help to do 11 anything we could to get the closure completed, 12 bills paid, all reimbursement in, whatever it 13 could be. I never had substantive 14 conversations about those types of things, but 15 we did talk about those. 16 Q. What type of help were you hoping to 17 get from these state officials? 18 A. Well, Governor Justice was clear he was 19 going to keep it open. He was going to come 20 back -- keep OVMC open. He promised that. He 21 promised a number of things. He promised that 22 WVU would get involved. Lots of things that 23 I'm sure he meant, but it didn't come to 24 fruition.</p>



<p style="text-align: right;">Page 26</p> <p>1 In fact, even after the fact, I met 2 with Albert Wright several times about at least 3 taking over the behavioral health part, keeping 4 the ER open, those kind of things. So it was 5 to try and keep the hospital -- you know, keep 6 it from closing, even though it was announced 7 to be closed. 8 <b>Q. Okay.</b> 9 A. It was also, what else can we do? Are 10 there any other options that can be unearthed, 11 so to speak. 12 <b>Q. Did you feel like during this time when</b> 13 <b>you were talking to the state officials that</b> 14 <b>the announcement that you were closing OVMC</b> 15 <b>was -- made it difficult or impossible for you</b> 16 <b>to have fruitful discussions along the lines</b> 17 <b>that you've been testifying about?</b> 18 A. I don't think it made it impossible. 19 Obviously, that made -- when the decision was 20 made, that's -- in a negotiation, you've got 21 some leverage I guess. But, no. There's a lot 22 of people that -- Justice and McKinley -- even 23 Ihlenfeld, the -- local senators, they all 24 wanted to figure out how they could keep it</p>	<p style="text-align: right;">Page 28</p> <p>1 Heck, we even talked with UPMC about 2 working with the cancer program -- trying to 3 protect the cancer program. Those are all 4 companies that -- or businesses that said no as 5 well. So to say it made it difficult or 6 impossible, no. I think everybody came to the 7 same realistic opinion, was that we could not 8 continue. 9 <b>Q. Right. So the announcement didn't</b> 10 <b>really have an impact on that, that had been</b> 11 <b>going on, correct?</b> 12 A. In my opinion, it did not 13 significantly. Others may have a different 14 opinion. 15 <b>Q. Okay. When this announcement was</b> 16 <b>made -- the decision we've been talking about</b> 17 <b>on or about August 6th, the announcement made</b> 18 <b>on August 7th, when was the target date to</b> 19 <b>close the hospital?</b> 20 A. I know there's legal ramifications. We 21 talked about that, the WARN Act or whatever. 22 I'm not real familiar with that. Other than 23 the fact we established the expectation that it 24 would meet that time frame. I assume that's 60</p>
<p style="text-align: right;">Page 27</p> <p>1 open. 2 Because it was a shock -- or an 3 announcement that not too many people -- no one 4 was involved in. Everyone had to expect it 5 because we were having difficulties. But 6 everybody tried to figure out, how can we keep 7 it open? So was it impossible? No. I think 8 there's a lot of genuine and earnest in getting 9 it done, but we weren't able to do it. 10 <b>Q. Right. So is it fair to say that the</b> 11 <b>announcement you don't think really made it</b> 12 <b>more difficult for you to communicate with</b> 13 <b>these state officials about keeping it open?</b> 14 A. Not more difficult to communicate. I 15 think there was a sense of urgency made. But 16 again, when they understood the breadth of the 17 issue, I believe it was difficult anyway. 18 <b>Q. Right.</b> 19 A. We had companies that do this for a 20 living, Prime, Steward, Cleveland Clinic. I 21 can't remember if we talked to Ohio first -- 22 what is it -- Ohio Health or whatever. We 23 talked to a number of places, and they weren't 24 interested at all.</p>	<p style="text-align: right;">Page 29</p> <p>1 days because for some reason I'm thinking 2 October 7th. That would have been probably 3 60 days. So I'm thinking we forecasted that 4 October 7th would be the date of closing. 5 MR. POMPONIO: Martha, could you 6 please pull up the document I sent you? 7 It's Defendants' 16762 through 16763. 8 This is a document that we're going to 9 mark as Deposition Exhibit Number 1. 10 (Exhibit 1 was marked.) 11 <b>Q. Mr. Dunmyer, do you recognize this?</b> 12 A. I know we did it. So I'll say, yes, I 13 recognize that. 14 <b>Q. Okay. If you could, take a moment --</b> 15 <b>if --</b> 16 MR. POMPONIO: Martha, if you could 17 kind of slowly scroll down so that 18 Mr. Dunmyer has an opportunity to sort of 19 skim it or read it as much as you like. 20 (Witness reviews document.) 21 A. Okay. 22 <b>Q. So do you recall this document?</b> 23 A. I do. 24 <b>Q. And who prepared it? If you know.</b></p>

<p style="text-align: right;">Page 30</p> <p>1 A. I do not know who -- I know I reviewed 2 it and approved my quotes and things. I do not 3 know who wrote it. I assume it was maybe Mike 4 Sarrao or Lex or both. But I do not know. 5 <b>Q. Do you feel -- sorry.</b> 6 A. On a side note -- I probably shouldn't 7 say this. But this letter here is what kept me 8 from having a job anywhere in West Virginia 9 according to Mr. Wright. He said that because 10 I blamed things on Wheeling Hospital and 11 Mr. Violi, that he would not hire me at any -- 12 in any position, he would keep me from finding 13 a job in West Virginia because of it. 14 That sounds harsh. And the way he said 15 it was kind of harsh too. But I understand the 16 way it was written. But it was my hospital, so 17 it was my quote, and that's why I said I 18 authored it. 19 <b>Q. And so we're talking about I think the</b> 20 <b>very last bullet point here?</b> 21 A. Correct. 22 <b>Q. Is it fair to say that those were</b> 23 <b>your -- I understand that it's your quote and</b> 24 <b>it was your hospital. But did you hold that</b></p>	<p style="text-align: right;">Page 32</p> <p>1 staff, but we didn't have staff in all the 2 areas. We didn't have doctors to take care of 3 them. Sure, on Monday, we might. But on 4 Tuesday, we might not. Thursday, we could. So 5 it was really to protect the quality of care 6 being provided. 7 I can argue with myself whether we 8 should have done it earlier or later. But to 9 protect the patients we were losing. Our 10 doctors had started to go to the Wheeling 11 Hospital or resign. We had staff, but not in 12 every department. We were struggling with OB 13 anyway. And the ED -- most of the ED -- I 14 believe 60, 70 percent - I'm ballparking it - 15 of our admissions came through the ED. We 16 couldn't admit because we didn't have some of 17 the docs. 18 Ten percent of the ED volume -- maybe 19 12, 13 percent, ended up being admitted. Those 20 are two different percentages -- of the volume. 21 So in order to protect the patients. 22 Go ahead and have at it. That was 23 premature. But my driving part was to protect 24 that patient who walks in or by ambulance --</p>
<p style="text-align: right;">Page 31</p> <p>1 <b>personal belief?</b> 2 THE WITNESS: Scroll back down, 3 please, all the way to page 2. 4 A. Quite frankly, I still hold that 5 belief, that we were harmed by Mr. Violi and 6 how they did business, yes. 7 <b>Q. Fair enough.</b> 8 A. I filed a petition with Wheeling 9 Hospital that came out that they did stuff with 10 physicians that were our physicians. I still 11 hold that belief, yes. 12 <b>Q. Okay. Now, in this press release, it</b> 13 <b>indicates that the hospital is going to</b> 14 <b>discontinue acute care and emergency services</b> 15 <b>at the beginning of September, correct?</b> 16 A. That's what it says, September 7th, I 17 think. 18 <b>Q. So we just talked about the target date</b> 19 <b>for the closure of the hospital being in</b> 20 <b>October. What precipitated this decision to</b> 21 <b>discontinue the acute care and emergency</b> 22 <b>services?</b> 23 A. I don't want to sound too altruistic, 24 but it was to protect the patients. We had</p>	<p style="text-align: right;">Page 33</p> <p>1 comes in and won't be able to be treated. Or 2 they could have been treated and then 3 transferred. But that too added a step to the 4 process. 5 <b>Q. And so who would you say -- let me ask</b> 6 <b>this. Was there any meeting or e-mail</b> 7 <b>communications where the decision to suspend</b> 8 <b>these services as reflected in this press</b> 9 <b>release --</b> 10 A. Not that I can recall, sir. I don't 11 know if we sent out e-mails or whatnot. I 12 don't recall. 13 <b>Q. What about -- I'm talking about the</b> 14 <b>decision to do this -- the decision to suspend</b> 15 <b>these services. How was that decision made?</b> 16 A. As with most of the decisions, I'm sure 17 it was on the phone. 18 <b>Q. And who would be involved in that</b> 19 <b>decision?</b> 20 A. Similar people. Maybe a few others. 21 Sylvia was nursing. There's -- I wish I would 22 have taken notes. I wish I would have kept 23 track of the decisions. But I was trying to -- 24 trying to get through a difficult time. So I</p>

<p style="text-align: right;">Page 34</p> <p>1 can't recall who all was on those calls. But 2 the same people that were on most of the calls 3 - the Lexes, the Mikes, the Jeremys. Probably 4 Sylvia in nursing. We had a quality person. I 5 can't even remember her name right now. They 6 probably were all on the phone calls at 7 different times.</p> <p>8 <b>Q. Okay. So how would you describe -- you</b> 9 <b>know, we went into how the decision was made on</b> 10 <b>August 6th to close OVMC. What about the</b> 11 <b>decision to suspend services in September of</b> 12 <b>2019, was it similar decision-making, or was it</b> 13 <b>different than -- some other way?</b></p> <p>14 A. It was similar decision-making. Again, 15 boy, as I told Mike -- my wife swears I've lost 16 three years of my life because of this. You 17 would think I would remember every detail. But 18 we were getting resignations. We had people 19 leaving. So I would communicate that. We 20 would discuss, and then we decided.</p> <p>21 I can't remember whether it was the day 22 before this was written, three days before this 23 was written. And if you're being told from 24 others -- great. They have a better memory</p>	<p style="text-align: right;">Page 36</p> <p>1 sure if it was the Warn, W-A-R-N, or Warren 2 Act. I never had to use it. Never been 3 involved in it. Didn't really read up on it. 4 Because, like I said, I was listening to legal 5 opinions or direction. So I still couldn't 6 tell you all the interworkings of the WARN Act.</p> <p>7 MR. POMPONIO: Martha, you can take 8 this screen share down whenever you want.</p> <p>9 <b>Q. All right. Were you aware that a</b> 10 <b>letter was sent to the employees of OVMC on</b> 11 <b>August 8th providing them some ostensibly or</b> 12 <b>allegedly notice that the hospital was going to</b> 13 <b>be closed?</b></p> <p>14 A. I'm sure I did. In fact, I know I was. 15 I can't recall the date or what was in it. 16 But, yes.</p> <p>17 <b>Q. And do you know who prepared that</b> 18 <b>letter?</b></p> <p>19 A. It probably came under my signature. 20 Again, I'm assuming. But it was prepared most 21 likely by some of the legal team of our 22 company.</p> <p>23 <b>Q. Okay. Do you know how it was mailed</b> 24 <b>out to employees, who handled -- physically</b></p>
<p style="text-align: right;">Page 35</p> <p>1 than me. They know who's involved, but I can't 2 recall.</p> <p>3 <b>Q. And let me just say, I don't expect you</b> 4 <b>to have any knowledge aside from your own</b> 5 <b>recollection. So that's fine -- whether you</b> 6 <b>recall it or not, that's perfectly acceptable</b> 7 <b>to me for sure.</b></p> <p>8 <b>All right. Do you know whose job it</b> 9 <b>was to ensure that the closure of OVMC complied</b> 10 <b>with the WARN Act?</b></p> <p>11 A. It was discussed by us all. One would 12 argue it was my responsibility to make sure of 13 that. But we had legal representation and HR 14 folks involved in that; you know, attorneys and 15 whatnot. So I suspect in a court of law, it's 16 mine. But I think I listened to our legal 17 opinion.</p> <p>18 <b>Q. Did you have any -- in this time</b> 19 <b>period, 2019, did you have any familiarity with</b> 20 <b>the WARN Act requirements aside from -- don't</b> 21 <b>tell me things that your lawyer told you. I</b> 22 <b>was wondering --</b></p> <p>23 A. No. Actually, I've never -- I've known 24 of the WARN Act -- to be honest, I was never</p>	<p style="text-align: right;">Page 37</p> <p>1 <b>mailing those letters?</b></p> <p>2 A. Yeah. I believe my office probably 3 handled that. I don't think we mailed them 4 from California. I think we mailed them from 5 OVMC.</p> <p>6 <b>Q. Okay. And do you know if it was</b> 7 <b>Mr. Bradshaw who prepared the letter?</b></p> <p>8 A. Well, I know I keep guessing. I 9 shouldn't guess. I don't know.</p> <p>10 MR. GARRISON: Yeah. I'm going to 11 caution the witness to not guess. But go 12 ahead and answer if you recall.</p> <p>13 A. I do not recall.</p> <p>14 <b>Q. But do you recall approximately how</b> 15 <b>many letters were sent out?</b></p> <p>16 A. I don't recall. But again, to all the 17 employees of both hospitals, whatever that 18 number was.</p> <p>19 <b>Q. About how many employees if you recall</b> 20 <b>were terminated as a result of the closure of</b> 21 <b>the hospital? That being OVMC employees.</b></p> <p>22 A. Well, I heard Mike's voice -- I don't 23 know. It was more than 100. I don't want to 24 guess. But it was -- I don't recall the</p>

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1 number. I'm sorry.

2 **Q. Do you have a recollection when it**  
3 **was -- the date that they were terminated?**

4 A. I do not. I didn't see any letters.  
5 I've talked with my attorneys. I was -- we did  
6 not go over any piece of paper. And I don't  
7 have those with me, so I could not remember  
8 that.

9 **Q. So there's documents that have been**  
10 **produced in connection with this case that**  
11 **refer to something called flexing. Are you**  
12 **familiar with that term?**

13 A. With what?

14 **Q. Flexing.**

15 A. Flexing? Flexing of staff or flexing  
16 of hours?

17 **Q. Right.**

18 A. I'm familiar with that.

19 **Q. I'm talking about flexing of staff.**

20 A. Well, I've used that term in every  
21 hospital I've been in. If it means the same --  
22 without the context -- if you show me the  
23 letter that says it, I will tell you. But we  
24 do that currently. If census drops, you flex

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1 your team, you drop hours. So I'm familiar  
2 with the term. I'm familiar for -- what it  
3 does for us. But without a copy of the letter  
4 or the context of the letter, I don't know how  
5 to answer you.

6 **Q. Okay. That's fair enough. And you**  
7 **obviously -- I just wanted to know, first of**  
8 **all, if you were familiar with it --**

9 A. Yeah.

10 **Q. -- the term, and would like you to --**  
11 **and you started to do this -- explain to me**  
12 **what it is. And you started to explain it.**  
13 **And you said that if the census drops, then you**  
14 **flex the staff out. Is that -- am I saying it**  
15 **--**

16 A. I didn't say it quite that way. But,  
17 yes, if census drops, you call people off.

18 **Q. Okay. And what's the census?**

19 A. The number of patients in the hospital;  
20 number of patients coming into different  
21 departments for services.

22 **Q. Okay. So how was the staffing at OVMC**  
23 **handled after it was announced that the**  
24 **hospital was going to close?**

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1 A. I can't recall how we did it. I want  
2 to answer your questions, but I've got to have  
3 more facts I guess. But we reduced staff  
4 because of reduced activities.

5 **Q. Okay. And so if -- was staff permitted**  
6 **to come to work if there was not any work for**  
7 **them to do after August 7th?**

8 A. If there was no work to be done, I  
9 assume we said stay home. Or we could -- if we  
10 were short in another department -- if they had  
11 the credentials, we could move them to another  
12 department. But I can't remember how we  
13 handled different days there.

14 So in general terms, yeah, we could --  
15 we'd call them off, send them home, have them  
16 work half days, work in other departments -  
17 this is any hospital - in order to get the job  
18 done, take care of the patients, but also be  
19 aware of reducing costs where you can. So I  
20 don't recall how we did it those days. I can't  
21 even tell you what the census was on  
22 August 7th. I have no recollection.

23 **Q. Well, certainly after September 3rd**  
24 **when the acute care and emergency services were**

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1 **suspended, the census presumably dropped**  
2 **dramatically?**

3 A. To zero, yeah.

4 **Q. After that date, how was the staffing**  
5 **handled? What you're saying is that the**  
6 **paperwork told us not to come in?**

7 A. I guess that's true, yes. We had some  
8 that did. We still had to collect the bills --  
9 or patients -- yeah, we had the bills for the  
10 services. We had to support and record medical  
11 records. Those types of things went on  
12 afterwards. So there were some that were still  
13 working. But if their job was not required,  
14 they would have been called off, yes.

15 **Q. Okay. And do you have a recollection**  
16 **about -- sort of the percentage of the**  
17 **workforce there -- percentage of employees at**  
18 **OVMC that -- after that September 3rd closure**  
19 **were still coming to work?**

20 A. I can't -- I have no idea. There were  
21 some. It was not a large percentage, but there  
22 were some. I don't know what percentage was  
23 still coming.

24 **Q. Is it fair to say by October 1st most**

<p style="text-align: right;">Page 42</p> <p>1 of the employees were not working, correct?</p> <p>2 A. If you want me to use logic, the answer</p> <p>3 is yes. But I can't recall the date. I'm</p> <p>4 trying to answer your questions because I don't</p> <p>5 like not answering. But I don't -- certainly</p> <p>6 by August 1st a significant number were not</p> <p>7 coming in. But I don't know those numbers.</p> <p>8 Q. Did Alecto or AHS or managers of that</p> <p>9 organization have any involvement in the</p> <p>10 flexing of staff after the closure on</p> <p>11 September 3rd?</p> <p>12 A. They were knowledgeable of it. We</p> <p>13 would communicate everything that we were doing</p> <p>14 with them. Not to get necessarily their</p> <p>15 approval, but certainly get their buy-in or</p> <p>16 agreement or ideas. Yeah. They were made</p> <p>17 aware of it. That would be my normal process</p> <p>18 with them. I can't tell you what days and how</p> <p>19 many people, but I do know that's how we</p> <p>20 communicated.</p> <p>21 MR. POMPONIO: Martha, could you pull</p> <p>22 up and share the screen with Defendants'</p> <p>23 Bates stamped 25373?</p> <p>24 (Exhibit 2 was marked.)</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. And so is your recollection refreshed</p> <p>2 after reading this e-mail that the majority --</p> <p>3 or large majority of employees of OVMC by</p> <p>4 October 1st were not working?</p> <p>5 A. Yeah. I understand why you asked it</p> <p>6 the way you did. But if you would have shown</p> <p>7 this to me first, I would have agreed with it.</p> <p>8 But, yes.</p> <p>9 Q. Okay. And you have Mr. Bradshaw's --</p> <p>10 yeah, Mr. Bradshaw's -- you forwarded your</p> <p>11 e-mail, it looks like, and you're not on that</p> <p>12 forwarding -- forwarded e-mail it appears at</p> <p>13 the top.</p> <p>14 A. You're right.</p> <p>15 Q. There is an attachment, a post-closure</p> <p>16 employees spreadsheet. Do you see that there?</p> <p>17 A. Yes.</p> <p>18 Q. And Mr. Bradshaw indicates that you're</p> <p>19 going to reduce the figure from --</p> <p>20 A. 200 to 70.</p> <p>21 Q. -- 200 down to 70 or less on that day,</p> <p>22 and will continue to reduce it further.</p> <p>23 And you see here in the paragraph</p> <p>24 before it -- let me ask you this before I go</p>
<p style="text-align: right;">Page 43</p> <p>1 MR. POMPONIO: Thank you.</p> <p>2 Q. I'm showing you, Mr. Dunmyer, what has</p> <p>3 been marked as Deposition Exhibit Number 2.</p> <p>4 A. Okay.</p> <p>5 Q. It appears to be an e-mail chain. You</p> <p>6 can see at the bottom, there's an e-mail from</p> <p>7 you to Lex Reddy, Mike Sarrao, Mr. Bradshaw and</p> <p>8 Mr. Redin and some others.</p> <p>9 A. Redin, yeah.</p> <p>10 Q. Some other individuals, including</p> <p>11 Ms. Coello. Let me ask you this first. Do you</p> <p>12 remember this e-mail?</p> <p>13 A. I don't, but I wish I would have</p> <p>14 spellchecked it.</p> <p>15 Q. Well, we're not going to get on you for</p> <p>16 spelling errors.</p> <p>17 A. I can't remember specifics. But it</p> <p>18 makes sense that I sent something like this,</p> <p>19 yes. That's on September 30th.</p> <p>20 Q. Does this refresh your recollection</p> <p>21 about the staffing levels at the hospital on or</p> <p>22 around October 1st?</p> <p>23 A. Well, the response back, yes, it tells</p> <p>24 me the numbers.</p>	<p style="text-align: right;">Page 45</p> <p>1 on. Do you recall Mr. Bradshaw -- was he</p> <p>2 correct, that you were tasked with reducing</p> <p>3 that figure down to 70 or less in the coming</p> <p>4 days and then reducing it further?</p> <p>5 A. No, I don't recall that. But I'm sure</p> <p>6 he didn't make it up either. So I was trying</p> <p>7 to reduce as quickly and as efficiently as I</p> <p>8 could.</p> <p>9 Q. Okay. And who -- was there anybody --</p> <p>10 any of these folks that are on this e-mail that</p> <p>11 had requested that you reduce this as quickly</p> <p>12 and efficiently as possible?</p> <p>13 A. No. I think it was discussed. Whether</p> <p>14 it was my idea and they supported it, I can't</p> <p>15 recall that. Or if it was our idea, and said,</p> <p>16 okay, let's drop that number.</p> <p>17 As you said, I'm not on that e-mail.</p> <p>18 So somewhere between 150 on September 30th, and</p> <p>19 at 11:30 on October 1st, I had a discussion</p> <p>20 with at least Mark about this is what I want to</p> <p>21 do -- not want to do. I hope you and everybody</p> <p>22 else understands, this is nothing anybody</p> <p>23 wanted to do.</p> <p>24 Q. Right.</p>



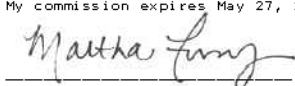
<p style="text-align: right;">Page 46</p> <p>1 A. We had to reduce the hours. So I'm not 2 going to say Mark or Lex told me I had to do 3 it, and I didn't want to do it. I was trying 4 to do what my job was, whether it was my idea 5 or supporting a consensus. Either way, I 6 suspect I was trying to get to 70 or less. I 7 do not recall.</p> <p>8 Q. I'm sorry. The end of that -- I missed 9 that. You said you suspect that you were --</p> <p>10 A. I suspect I was trying to get it down 11 from 200 to 70 or less.</p> <p>12 Q. Okay.</p> <p>13 A. I don't recall where that came from, 14 but I don't doubt that was discussed. So I'll 15 accept that as being said. It was -- what I 16 was trying to do was get us through the end of 17 this.</p> <p>18 Q. Let's go to the paragraph before that. 19 It says, Total employees on the roster is over 20 800, but the total who are actually working 21 productive hours is approximately 200.</p> <p>22 Do you recall that being the case at 23 this time period, that there were people that 24 were on the roster, but the large majority of</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. I'm showing you what's been marked as 2 Deposition Exhibit Number 3. It's another 3 e-mail chain. The first e-mail is from you. 4 We're talking about winding down -- you were 5 talking about winding down and limiting the 6 number of staff.</p> <p>7 A. Okay.</p> <p>8 Q. Do you recall this e-mail?</p> <p>9 A. I don't recall it, but it's me. So, 10 yes -- no one created it for me. So, yeah.</p> <p>11 Q. And this e-mail that was sent, who -- 12 it looks like it's to department managers of 13 both hospitals and human resources?</p> <p>14 A. That's correct.</p> <p>15 Q. What's your -- is this a typo -- this 16 is not important here. Just out of 17 curiosity -- you say that you want to thank 18 them for their hard work over the past 129 19 years.</p> <p>20 A. That's how long the hospital was open, 21 I believe.</p> <p>22 Q. I see.</p> <p>23 A. Obviously nobody is 129 years old.</p> <p>24 Q. Right.</p>
<p style="text-align: right;">Page 47</p> <p>1 them were not working?</p> <p>2 A. I believe that to be true, yes. They 3 hadn't resigned. They hadn't been terminated. 4 But they're using their PTO to work out -- I 5 suspect that's correct. Trying to -- you know, 6 at that time -- I can't recall when East Ohio 7 closed, the official day. But this is for both 8 hospitals, I believe. So it makes sense.</p> <p>9 Q. Did you have any discussions with 10 anybody at Alecto during this time when you 11 were reducing the staff about the impact of 12 scheduling -- stop scheduling these people in 13 connection with the WARN Act?</p> <p>14 A. I don't recall that at all. In fact, 15 as I've told you, my exposure to the WARN Act 16 was in that letter that we sent -- some letter 17 that WARN was mentioned, I thought. I didn't 18 study it. So, no. They never called and said, 19 hey, reduce these, but be careful, is it in 20 accordance with or not in accordance with the 21 WARN Act. No, I never had discussions.</p> <p>22 MR. POMPONIO: Martha, could you pull 23 up Defendants' 3099, please? 24 (Exhibit 3 was marked.)</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. POMPONIO: If you could, scroll 2 back up, Martha, please.</p> <p>3 Q. This up here is a follow-up that -- 4 Ms. Coello's e-mail following up on your 5 e-mail, correct?</p> <p>6 A. Yeah.</p> <p>7 Q. Do you recall this specifically?</p> <p>8 A. I'll say the same thing. I believe she 9 sent it. So I must be aware of it. I don't 10 recall it.</p> <p>11 Q. But you see that you're cc'd there, so 12 you believe you received this; is that fair?</p> <p>13 A. Yes, that's fair.</p> <p>14 Q. She says here, We have been asked to 15 severely limit the folks we have coming in for 16 the remainder of the week. Unless you are 17 specifically contacted by me, Lisa or Dan or 18 any other member of the senior leadership team, 19 do not come in to work tomorrow or going 20 forward.</p> <p>21 Correct?</p> <p>22 A. That's correct.</p> <p>23 Q. She says there, We have been asked to 24 severely limit the folks we have coming in for</p>

<p style="text-align: right;">Page 50</p> <p>1 the remainder of the week. And just previously</p> <p>2 you were talking about how you were trying to</p> <p>3 do this staffing reduction efficiently. I was</p> <p>4 asking you about how that -- you know, those</p> <p>5 communications with Alecto, and you couldn't</p> <p>6 recall specifically.</p> <p>7 Does this refresh your recollection</p> <p>8 whether anybody from Alecto was communicating</p> <p>9 with you and what is referred here as the</p> <p>10 senior leadership team about carrying out the</p> <p>11 staffing reductions?</p> <p>12 A. Actually, it doesn't refresh my memory.</p> <p>13 I know that I was part of the decision. I was</p> <p>14 making -- taking action. Jennifer wouldn't</p> <p>15 make things up, I suspect. So she may have put</p> <p>16 that in there. But I don't recall anyone</p> <p>17 saying you have to cut people out now. If it</p> <p>18 was, it was me supporting that or saying it</p> <p>19 myself. But she does say, we have been. But I</p> <p>20 don't recall anyone from Alecto telling us</p> <p>21 that.</p> <p>22 Was it part of a conversation when we</p> <p>23 were on the phone? Yeah. I'm sure we were.</p> <p>24 But I don't recall anything differently than</p>	<p style="text-align: right;">Page 52</p> <p>1 you are I suspect. I'm thinking who -- I don't</p> <p>2 know all the positions they need to have to</p> <p>3 wind down. If I want to eliminate the director</p> <p>4 of facilities, I want to know if they need that</p> <p>5 person there.</p> <p>6 But I understand what you're saying. I</p> <p>7 wanted some input as to what they would have to</p> <p>8 do after we're gone, who they have to have in</p> <p>9 the building. But I understand -- I do say,</p> <p>10 make sure the rest are directed not to come in.</p> <p>11 But that's my way of saying we're -- I'm</p> <p>12 getting input from you, but not necessarily a</p> <p>13 decision. But I'll take it for what it's</p> <p>14 worth.</p> <p>15 I remember medical records -- we had to</p> <p>16 keep medical records open and stuff like that.</p> <p>17 Who they needed to have is what I believe I was</p> <p>18 asking. It certainly doesn't come across that</p> <p>19 way.</p> <p>20 Q. Do you recall during this time, when</p> <p>21 you were trying to reduce the staffing, about</p> <p>22 any direction to the employees to take their</p> <p>23 PTO time?</p> <p>24 A. I'm sure I did say that they could do</p>
<p style="text-align: right;">Page 51</p> <p>1 what I've told you.</p> <p>2 MR. POMPONIO: Martha, could you pull</p> <p>3 up Defendants' 25373?</p> <p>4 THE WITNESS: That's the other one we</p> <p>5 were looking at before.</p> <p>6 THE COURT REPORTER: That was</p> <p>7 Number 2, Bren.</p> <p>8 MR. POMPONIO: This is a duplicate of</p> <p>9 Number 2? Sorry for the confusion.</p> <p>10 Q. If you could, scroll down to the</p> <p>11 bottom. Right here at the end of this -- this</p> <p>12 is an e-mail to Mike Sarrao. And you say you</p> <p>13 have a meeting tomorrow at 9:00 a.m., and you</p> <p>14 know that's early for California time, and you</p> <p>15 offer 12:30. Basically, what I understand you</p> <p>16 to be doing here -- and you tell me if I'm</p> <p>17 wrong about this -- is that you want some</p> <p>18 direction from Mr. Sarrao. And you say, if you</p> <p>19 can't talk -- and you want to talk on the</p> <p>20 phone, and if you can't, simply let me know</p> <p>21 what positions you want us to have and I will</p> <p>22 make sure the rest are directed not to come in.</p> <p>23 Is that --</p> <p>24 A. Yeah. I'm not reading it the same way</p>	<p style="text-align: right;">Page 53</p> <p>1 that, yes.</p> <p>2 Q. And when you said -- when you say you</p> <p>3 told them that -- or you're sure that you told</p> <p>4 them they could do that, was there any request</p> <p>5 made of the employees to use up their -- to not</p> <p>6 come in to work and use up their PTO?</p> <p>7 A. It's interesting how you phrased it. I</p> <p>8 probably said, why don't you use up PTO so you</p> <p>9 can get a paycheck. It wasn't, use it up.</p> <p>10 I'll give you an example here, or at</p> <p>11 every other hospital I've been at. We talked</p> <p>12 about flexing. There are some paid positions</p> <p>13 that cannot flex. They're salaried positions.</p> <p>14 They get paid. Well, I instruct my managers to</p> <p>15 take a day off. We're telling other folks to</p> <p>16 take off because of census. So I'm asking you</p> <p>17 to, and you can use PTO. So I always --</p> <p>18 It's curious how you said it. But it</p> <p>19 wasn't to use it up. It was, hey, use PTO so</p> <p>20 you can get a paycheck. But either way, it's</p> <p>21 the same result.</p> <p>22 Q. I wasn't intending to lace that with</p> <p>23 any judgment or anything like that. I just</p> <p>24 wanted to know two things about this. One, did</p>



<p style="text-align: right;">Page 54</p> <p>1 you tell people that they should use their PTO</p> <p>2 in this time period? And we've answered that.</p> <p>3 And two, was there any communications</p> <p>4 with the managers from Alecto about suggesting</p> <p>5 that people use their PTO in this context?</p> <p>6 A. I can't recall any of that. But I know</p> <p>7 I probably said that. Not that they should or</p> <p>8 had to. But certainly said -- we're calling</p> <p>9 you off, use your PTO.</p> <p>10 I know you're not making a big deal of</p> <p>11 it. I don't want to make a big deal of it.</p> <p>12 It's word choice at best, or semantics. Yes,</p> <p>13 I'm sure I did say that. I don't recall anyone</p> <p>14 from Alecto saying, hey, get all of these</p> <p>15 people to use up all of their PTO. I guess</p> <p>16 that would be a benefit. I don't know if it</p> <p>17 would or if it would not. They have to pay it</p> <p>18 out at some point.</p> <p>19 I don't recall ever having anybody from</p> <p>20 Alecto telling me that. They could have, but I</p> <p>21 don't recall it. And I'm sure I did suggest it</p> <p>22 to people.</p> <p>23 MR. POMPONIO: Martha, could you</p> <p>24 scroll up to the top again, please, on</p>	<p style="text-align: right;">Page 56</p> <p>1 don't try to minimize that. But is it fair to</p> <p>2 say that you're expressing some frustration</p> <p>3 here to the Alecto folks about some decisions</p> <p>4 that were made regarding the wind-down of OVMC?</p> <p>5 A. It's fair enough to say. I'd like to</p> <p>6 use other words. But, yeah, I'll say</p> <p>7 frustration.</p> <p>8 Q. Would those other words be less</p> <p>9 diplomatic?</p> <p>10 A. Yeah. Maybe perhaps so.</p> <p>11 Q. Okay.</p> <p>12 A. Was there a response to this? Because</p> <p>13 I was frustrated.</p> <p>14 MR. POMPONIO: Scroll up --</p> <p>15 A. There we go. Okay. So that tells me</p> <p>16 that, yes, I was making some of those decisions</p> <p>17 or all of those decisions, and that showed</p> <p>18 where I was frustrated, and I was not -- or</p> <p>19 perceived to not. I got -- yes. I got</p> <p>20 extremely angry if somebody was making a</p> <p>21 decision or saying something that I was not</p> <p>22 involved with.</p> <p>23 It was a horrible time. And the</p> <p>24 further away -- I've said this a thousand</p>
<p style="text-align: right;">Page 55</p> <p>1 Exhibit 2?</p> <p>2 Q. Well, you've answered the question.</p> <p>3 I'm not going to belabor that.</p> <p>4 MR. POMPONIO: Martha, could you pull</p> <p>5 up Defendants' 017440? This will be</p> <p>6 Exhibit Number 3 or 4?</p> <p>7 THE COURT REPORTER: This will be</p> <p>8 four.</p> <p>9 (Exhibit 4 was marked.)</p> <p>10 Q. This is another e-mail chain or</p> <p>11 correspondence back and forth between -- we're</p> <p>12 going to start here at the bottom where Martha</p> <p>13 has it cued up. This is from you to Himanshu</p> <p>14 Handa and Jeremy.</p> <p>15 A. Okay.</p> <p>16 Q. So that's Redin and Handa, correct?</p> <p>17 A. Himanshu Handa, yeah.</p> <p>18 Q. All right. Do you want to --</p> <p>19 A. Give me a second to read it.</p> <p>20 Q. Let me know when you're finished.</p> <p>21 (Witness reviews document.)</p> <p>22 A. Okay.</p> <p>23 Q. Now, I recognize that this was a</p> <p>24 difficult period for you and for others. I</p>	<p style="text-align: right;">Page 57</p> <p>1 times. The further you're away from a patient,</p> <p>2 the more the decision is on finance than</p> <p>3 anything else. That's why I insisted on being</p> <p>4 part of the decisions. I was even at the</p> <p>5 bedside, or close to it. I was getting</p> <p>6 comments -- they were wrong. I was getting</p> <p>7 comments that we're not allowed to order this</p> <p>8 and that. And that wasn't how I operate. I</p> <p>9 wanted to be able to make those decisions.</p> <p>10 This is me reinforcing that. Yeah. I was</p> <p>11 extremely upset. That was just August 23rd, I</p> <p>12 see.</p> <p>13 Q. Right.</p> <p>14 A. Himanshu and I had a love-hate</p> <p>15 relationship. He's a good guy. Jeremy is a</p> <p>16 fine gentleman. Jeremy Redin. It looks like</p> <p>17 Redden (phonetic) but he pronounces it Redin.</p> <p>18 I remember that day. But I was getting</p> <p>19 hot just reading it again.</p> <p>20 MR. POMPONIO: Can we pull up,</p> <p>21 Martha, Defendants' 5150 through 5152,</p> <p>22 please?</p> <p>23 (Exhibit 5 was marked.)</p> <p>24 Q. I'm showing you what's been marked as</p>

<p style="text-align: right;">Page 58</p> <p>1 <b>Deposition Exhibit Number 5, Mr. Dunmyer. Can</b> 2 <b>you take a second and sort of read through</b> 3 <b>this? We didn't receive this e-mail or send</b> 4 <b>it, I don't think. So if you don't know</b> 5 <b>anything about it, that's fine.</b> 6 A. Well, I don't. I'm not even sure who 7 Brandon is. I assume he's at West Liberty, but 8 also does E-squad or something. I don't know 9 anything about this. I do assume -- he said, 10 hey, transfer everybody to East Ohio if you 11 can. But I don't recall -- or never -- I don't 12 believe I saw that. 13 <b>Q. Okay. Did you read through it all?</b> 14 A. Well, I did. 15 <b>Q. Do you know if it's accurate as to what</b> 16 <b>was going on at this time, around</b> 17 <b>September 3rd, 2019?</b> 18 A. I'm going to answer it this way. It 19 says, Acute services after September 3rd, 20 11:59. I guess that is true. I don't know if 21 that's factual. You probably know that. I 22 probably should know that, but I don't recall 23 the date. I do recall going to the ED on some 24 evening -- the evening that we ended ED</p>	<p style="text-align: right;">Page 60</p> <p>1 small number of staff will remain. That's 2 true. Yeah, we had a small number of staff. I 3 think a lot of it is true. I can't tell you 4 any of it is true. But I'm sure a lot of it 5 is. 6 <b>Q. Okay.</b> 7 MR. POMPONIO: I'd like to take a 8 short break here and go through my notes. 9 <b>Q. Well, actually, I do have one short</b> 10 <b>line of questions I want to go over real quick.</b> 11 <b>You mentioned that you have those two cell</b> 12 <b>phones. Did you have both of those phones in</b> 13 <b>2019?</b> 14 A. Yeah, I guess I did. 15 <b>Q. Did you use either of those phones or</b> 16 <b>both at any time to send or receive text</b> 17 <b>messages with anybody at Alecto?</b> 18 A. Oh, I'm sure I did. I can look and see 19 what I have. 20 <b>Q. Okay. I appreciate that.</b> 21 A. I won't destroy anything. I'll 22 certainly share with Mike. 23 MR. POMPONIO: Oh, great. So if we 24 could go off the record for a couple of</p>
<p style="text-align: right;">Page 59</p> <p>1 services and spent time with a number of 2 employees and all the E-squads. What date that 3 was, I have no idea. There was no commitment 4 from WVU to take the psych patients, or take 5 over the psych services. We tried to work on 6 that. And as of September 3rd, it wasn't 7 completed. 8 I do remember working with David Hess 9 at Reynolds. And I think they ultimately took 10 our -- a lot of our staff and hopefully the 11 patients. I hope -- mental health is such a 12 big issue anyway. 13 Employees will not be laid off at this 14 time, but most will have their hours reduced to 15 zero. I suspect that's right if we're saying 16 don't come in to work. But I don't know about 17 the low-earnings slips, and they can't be laid 18 off during the warn notice. I don't know if 19 that's true or not. That didn't come from me. 20 Again, I don't know who Brandon is. 21 During this period, PTO can be used. 22 There may be a required resignation to get the 23 lump sum. I guess it did. But even at the 24 end -- I think it was on the end. And then a</p>	<p style="text-align: right;">Page 61</p> <p>1 minutes while I confer, we should be done. 2 (Break in proceedings.) 3 BY MR. POMPONIO: 4 <b>Q. Mr. Dunmyer, we were talking earlier</b> 5 <b>about the WARN Act. I believe you testified</b> 6 <b>that you consulted with your lawyers regarding</b> 7 <b>the WARN Act requirements. Do you recall that</b> 8 <b>testimony? Am I saying that correctly?</b> 9 A. Actually, I didn't consult them about 10 the WARN Act. The WARN Act was a discussion. 11 I went with it. I didn't ask them to explain 12 it. But, yeah, we talked about that at one 13 time. 14 <b>Q. Okay. And who exactly are the -- is</b> 15 <b>your lawyer or lawyers that you were talking to</b> 16 <b>about that?</b> 17 A. I'll answer the question who they are. 18 I don't know which one was on, or both. But 19 you know the names. Mike Sarrao and Mark 20 Bradshaw are the two attorneys that I used for 21 everything. 22 <b>Q. Okay. All right. Do you have any</b> 23 <b>affiliation, financial or otherwise, with</b> 24 <b>Alecto currently?</b></p>

<p>Page 62</p> <p>1 A. No, sir, not at all.</p> <p>2 <b>Q. Do you have any affiliation with -- at</b></p> <p>3 <b>your hospital or hospitals that you've worked</b></p> <p>4 <b>at since 2019 with an outfit called MPT</b></p> <p>5 <b>Financing?</b></p> <p>6 A. No, sir.</p> <p>7 <b>Q. Are any of the players -- to your</b></p> <p>8 <b>knowledge, any of the players that were</b></p> <p>9 <b>involved at OVMC, are they involved in any of</b></p> <p>10 <b>your other current hospitals in the positions</b></p> <p>11 <b>that you held?</b></p> <p>12 A. No. This is the only hospital. When I</p> <p>13 left, I came here. None of them moved to</p> <p>14 Florida. Everybody else seems to be moving to</p> <p>15 Florida, but no one up there moved. So, no,</p> <p>16 I'm not with anyone -- affiliated with anyone.</p> <p>17 MR. POMPONIO: Well, that's all the</p> <p>18 questions I have.</p> <p>19 A. Can I ask you --</p> <p>20 MR. GARRISON: You can't ask any</p> <p>21 questions, Dan. You can ask me later,</p> <p>22 but -- sorry to be blunt.</p> <p>23 But we don't have any questions. And</p> <p>24 we'll read and sign.</p> <p>Page 63</p> <p>1 MR. POMPONIO: For the record, I'd be</p> <p>2 happy to answer your questions.</p> <p>3 MR. GARRISON: I'm sure you would.</p> <p>4 (Deposition concluded at 2:50 p.m.)</p> <p>5 * * * * *</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 64</p> <p>1 I, Martha Fourney, Certified Court</p> <p>2 Reporter and Notary Public, do hereby certify</p> <p>3 that the foregoing deposition of the</p> <p>4 above-named witness, was duly taken by me in</p> <p>5 machine shorthand, was recorded via Zoom, and</p> <p>6 that the same were accurately written out in</p> <p>7 full and reduced to computer transcription.</p> <p>8 I further certify that I am neither</p> <p>9 attorney or counsel for, nor related to or</p> <p>10 employed by, any of the parties to the action</p> <p>11 in which this deposition is taken, nor do I</p> <p>12 have a financial interest in the action.</p> <p>13</p> <p>14</p> <p>15</p> <p>16 My commission expires May 27, 2027</p> <p>17 </p> <p>18 _____</p> <p>19 Martha Fourney</p> <p>20 Certified Court Reporter/Notary Public</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
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Page 62

1 A. No, sir, not at all.

2 Q. Do you have any affiliation with -- at  
3 your hospital or hospitals that you've worked  
4 at since 2019 with an outfit called MPT  
5 Financing?

6 A. No, sir.

7 Q. Are any of the players -- to your  
8 knowledge, any of the players that were  
9 involved at OVMC, are they involved in any of  
10 your other current hospitals in the positions  
11 that you held?

12 A. No. This is the only hospital. When I  
13 left, I came here. None of them moved to  
14 Florida. Everybody else seems to be moving to  
15 Florida, but no one up there moved. So, no,  
16 I'm not with anyone -- affiliated with anyone.

17 MR. POMPONIO: Well, that's all the  
18 questions I have.

19 A. Can I ask you --

20 MR. GARRISON: You can't ask any  
21 questions, Dan. You can ask me later,  
22 but -- sorry to be blunt.

23 But we don't have any questions. And  
24 we'll read and sign.

Page 63

1 MR. POMPONIO: For the record, I'd be  
2 happy to answer your questions.

3 MR. GARRISON: I'm sure you would.  
4 (Deposition concluded at 2:50 p.m.)

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Page 64

1 I, Martha Founrey, Certified Court

2 Reporter and Notary Public, do hereby certify  
3 that the foregoing deposition of the  
4 above named witness, was duly taken by me in  
5 machine shorthand, was recorded via Zoom, and  
6 that the same were accurately written out in  
7 full and reduced to computer transcription.

8 I further certify that I am neither  
9 attorney or counsel for, nor related to or  
10 employed by, any of the parties to the action  
11 in which this deposition is taken, nor do I  
12 have a financial interest in the action.

13  
14  
15 My commission expires May 27, 2027

16  
17 *Martha Founrey*  
18

19 Martha Founrey

20 Certified Court Reporter/Notary Public  
21  
22  
23  
24

*Daniel C Dunmyer*  
*July 4, 2022*

*Two corrections noted*